Before the Federal Communications Commission Washington, D.C. 20554

In the Matter of) MB Docket No. 14-82
PATRICK SULLIVAN (Assignor)) FRN 0003749041, 0006119796,) 0006149843, 0017196064
and) Facility ID No. 146162
LAKE BROADCASTING, INC. (Assignee)) File No BALFT-20120523ABY
Application for Consent to Assignment of License of FM Translator Statin W238CE, Montgomery, Alabama)

To: Enforcement Bureau

PROTECTIVE ORDER PURSUANT TO SECTION 1.313 OF THE COMMISSION'S RULES

Pursuant to Section 1.313 of the Commission's Rules, Lake Broadcasting, Inc. ("Lake"), by its attorney, hereby asks the Presiding Judge to issue a protective order in connection with a proposed psychological examination of Mr. Michael Rice by the Enforcement Bureau's ("Bureau") expert, Dr. Kimberly Weitl. In support whereof, the following is shown:

- In Order, FCC 15M-26 (the "Order"), released August 4, 2015 in this
 proceeding, the Presiding Judge granted the Bureau's expert, Dr. Weitl, latitude in conducting
 an interview of Mr. Rice. Lake requested that a transcript be prepared of the interview, and that
 request was denied (Order at 4).
 - 2. On August 4, 2015, Lake's counsel informally discussed with Bureau counsel

rearranging the deposition schedule, and it was agreed that depositions should not occur during the week of August 17 but hopefully during the week of September 7, excluding Labor Day. It was envisioned that Dr. Weitl would interview Mr. Rice sometime between August 5 and the end of August, so that she could prepare and present her psychological report concerning Mr. Rice prior to her being deposed during the week of September 7.

- 3. Two weeks have passed since August 4, and, to date, the Bureau has not set any date for Mr. Rice's interview. Time is running short if the interview is to occur in such a way that Dr. Weitl can timely present her report so that she can be deposed thereon during the week of September 7.
- 4. In the meantime, after reading the *Order*, Lake discovered on that same day by Lexis research that, between 2010 and the present, Dr. Weitl has been involved in some 20 federal or state lawsuits concerning her psychological examinations. See attached Lexis research. Most distressingly, in one case, *Smego v. Weitl*, 2013 U.S. Dist. LEXIS66796 (May 10, 2013), Plaintiff alleged that "Dr. Weitl made numerous false allegations and statements, twisted facts to the point of unrecognizability, and omitted so many essential facts including exculpatory evidence as to render her report an outright lie". That case was dismissed by U.S. District Court Judge Myerscough on procedural grounds, because Dr. Weitl was held to be entitled to witness immunity from Plaintiff's claims arising from her report submitted to a state court, so the merits were never adjudicated.
- 5. While Lake has not objected to the basic qualifications of Dr. Weitl as a psychologist, it is very concerned about the apparent bias in her reports against criminal rehabilitation. This new concern, based upon just-discovered research, provides new grounds for Lake's request that a court reporter be present to record and transcribe Mr. Rice's interview and/or that Mr. Rice be permitted to prepare his own audio recording of the interview to protect

himself against errors or misrepresentations by Dr. Weitl. Lake is willing to pay the cost of

such a court reporter.

6. Section 1.313 of the Rules is intended to "protect any party or deponent from

annoyance, expense, embarrassment, or oppression". In Lake's view, the continued dilly-

dallying by the Bureau as to the schedule in this proceeding, and now particularly with respect

to the Weitl interview and report preparation, compounded by the expert's apparent bias,

amounts to harassment and oppression of Mr. Rice. Given the facts, Lake urges that he is

entitled to an interview setting which will help ensure that he is not oppressed by the interview

or how it is subsequently reported by Dr. Weitl. The Presiding Judge's intervention is

respectfully requested to order that transcription of the interview occur (with a timely copy

thereof given to Lake) or that Mr. Rice be permitted to prepare his own audio recording of his

interview.

Respectfully submitted,

Jerold L. Jacobs

Law Offices of Jerold L. Jacobs

1629 K Street, N.W. Suite 300

Washington, DC 20006

(202) 508-3383

Counsel for Lake Broadcasting, Inc.

Dated: August 18, 2015

Attachments:

3

CERTIFICATE OF SERVICE

I, Jerold L. Jacobs, hereby certify that on this 18th day of August, 2015, I filed the foregoing "Lake Broadcasting, Inc.'s Motion For a Protective Order Pursuant to Section 1.313 of the Commission's Rules" in ECFS and caused a copy to be sent via First Class United States Mail and via e-mail to the following:

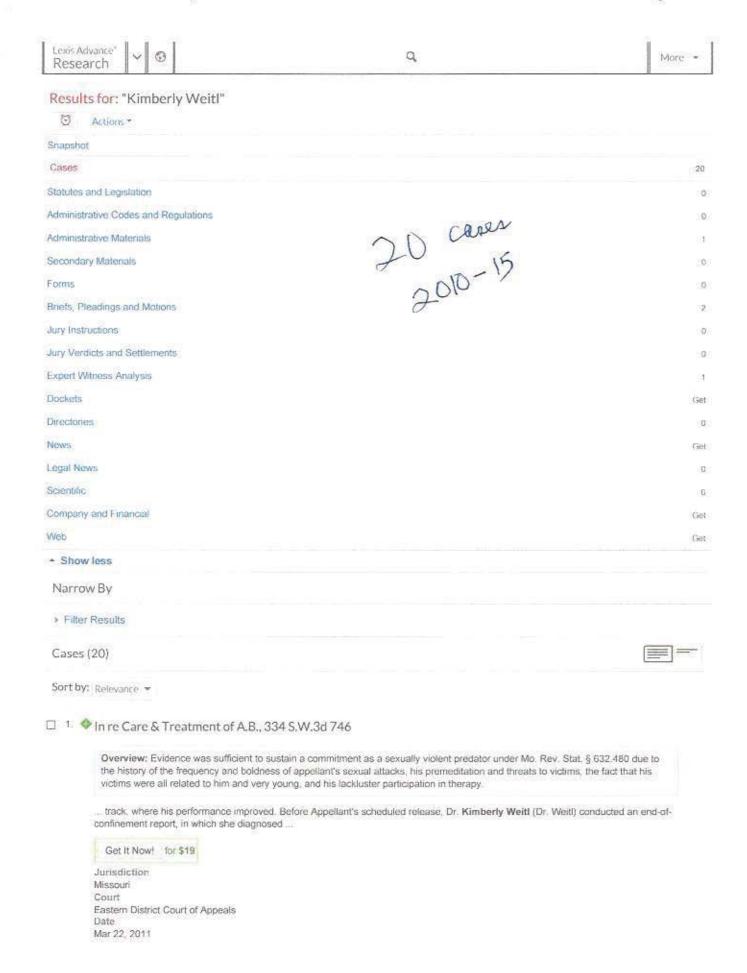
Hon. Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Richard.Sippel@fcc.gov
Austin.Randazzo@fcc.gov
Mary.Gosse@fcc.gov

Paula L. Blizzard, Deputy Chief Enforcement Bureau Federal Communications Commission 445 12th Street, S.W. Washington, DC 20554 Paula.Blizzard@fcc.gov

William Knowles-Kellett, Esq.
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
William.Knowles-Kellett@fcc.gov

Gary Oshinsky, Esq.
Pamela Kane, Esq.
Jeffrey Gee, Esq.
Special Counsel
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Gary.Oshinsky@fcc.gov
Pamela.Kane@fcc.gov
Jeffrey.Gee@fcc.gov

Jerold L. Jacobs



2. Duke v. Buck (In re Duke), 2013 IL App (1st) 121722

Overview: Where plaintiff alleged that a doctor and others committed medical and professional malpractice by improperly diagnosing and treating him as a sexual sadist under the Sexually Violent Persons Commitment Act, 725 ILCS 207/1 et seq., plaintiff could not establish a duty owed by the doctor because they did not have a therapeutic relationship.

... TERRY DUKE, (Terry Duke, Plaintiff-Appellant, v. Jacqueline Buck, Ph.D., and Kimberly Weitl., Psy.D., Defendants-Appellees, (Erin Busse, M.A., L.P.C. and Liberty Healthcare

... 2002) (Act). Plaintiff alleged that defendants Dr. Jacqueline Buck, Dr. Kimberly West, licensed therapist Erin Busse, and Liberty Healthcare Corporation committed ...

Get It Now! for \$19

Jurisdiction

Illinois

Court

1st District Court of Appeals

Date

Dec 17, 2013

3. On re Simmons, 2012 IL App (1st) 112375-U

... according to the record, the report was completed by Dr. Kimberly Weitl on December 3, 2007.

The State's second witness was Dr. Kimberly Weitl , a licensed clinical psychologist. Dr. Weitl was questioned about ...

Get It Now! for \$19

Jurisdiction
Illinois

Court

1st District Court of Appeals

Date

Oct 05, 2012

People v. Miller (In re Miller), 2013 IL App (4th) 120759-U

In October 2011, Dr. Kimberly Weitl , a psychologist, examined respondent. Based on her review of ...

Tsoflias who is the State's expert as well as Dr. Kimberly Weitl, W-E-I-T-I. And after a review of those reports, the court

Get It Now! for \$19
Jurisdiction
Illinois
Court

4th District Court of Appeals

Date

Jul 23, 2013

5. Smego v. Kunkel, 2013 U.S. Dist. LEXIS 166745

Plaintiff's original complaint, naming only Kimberly Weitl as a Defendant, was dismissed with leave to replead. In ..

... the Court is Plaintiff's second amended complaint. Plaintiff again names Kimberly Weitl as a Defendant. Again the Court concludes that Plaintiff has ...

Jurisdiction

U.S. Federal

Court

Illinois Central District Court

Date

Nov 25, 2013

5 Smego v. Weitl, 2013 U.S. Dist. LEXIS 66796

RICHARD MICHAEL SMEGO, Plaintiff, v. KIMBERLY WEITL, PsyD., Defendant.

Defendant Kimberly Weitl, a licensed clinical psychologist, conducted a reexamination of Plaintiff in ...

Jurisdiction
U.S. Federal
Court
Illinois Central District Court
Date
May 10, 2013

Overview: Order civilly committing appellant as sexually violent predator under Mo. Rev. Stat. § 632.480(5) was upheld because, in addition to hearing about his long pattern of deviant sexual behavior, jury also heard State's expert testify that because of his paraphilia and antisocial personality disorder, he experienced difficulty controlling his behavior.

... years in prison. Prior to his release from incarceration, Dr. Kimberty Weitt filed an end-of-confinement report wherein she opined that Bernboom appeared ...

Get It Nowl for \$19

Jurisdiction
Missouri
Court
Western District Court of Appeals
Date

B Bradley v. State, 440 S.W.3d 546

Dec 14, 2010

Overview: In a sexually violent predator commitment proceeding, court did not lose jurisdiction by holding the probable cause hearing outside the 72-hour window provided by Mo. Rev. Stat. § 632.489.2 because noncompliance could constitute only mere error, which was subject to waiver; appellant waived his claim of error by failing to raise a timely objection.

Before Bradley's scheduled release date on June 9, 2011, Dr. Kimberly Weitl, a licensed psychologist with the Department of Corrections, filed ...

Get it Now! for \$19
Jurisdiction
Missouri
Court
Western District Court of Appeals
Date
Jun 17, 2014

9 Pradshaw v. State (In re Bradshaw), 375 S.W.3d 237

Overview: Reasonable juror could have concluded that clear and convincing evidence established that appellant suffered from mental abnormalities which caused him to have serious difficulty controlling his behavior and that he was sexually violent predator under Mo. Rev. Stat. § 632-480(5), as, inter alia, a psychologist diagnosed appellant with paraphilia.

Dr. Kimberly Weitl ("Dr. Weitl"), a licensed psychologist for the DOC, testified it ...

Get It Nowl for \$19

Jurisdiction
Missouri
Court
Southern District Court of Appeals
Date
Aug 22, 2012

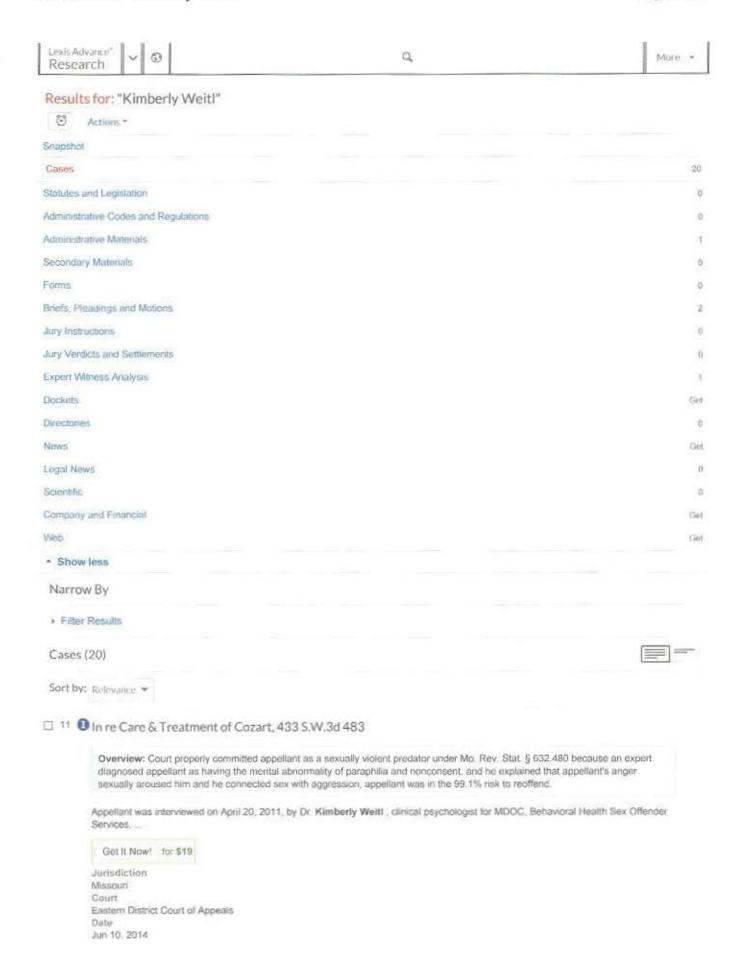
10 Gormon v. Dowd, 2009 U.S. Dist. LEXIS 20076

... Prosecuting Attorney), Mary Pat Benniger (Assistant St. Louis Prosecuting Attorney), Kimberly Weitl (Psychologist, MOSOP), Richard Scott (Psychologist), Mindy Huddleston (Probation and Parole ...

Jurisdiction
U.S. Federal
Court
Missoun Eastern District Court
Date
Mar 09, 2009

F @ LexisNexis

2 *



12. In re Care & Treatment of Doyle, 428 S.W.3d 755

Overview: An order civilly committing appellant on the ground that he was a sexually violent predator was upheld because the trial court did not err in admitting the testimony of the State's expert, a forensic psychiatrist; Mo. Rev. Stat. § 632.489.4 implicitly granted the State the right to privately retain an expert medical opinion.

.. experts testified regarding Appellant's status as an SVP. Dr. Kimberly Weitl, a clinical psychologist employed by the State of Missouri .

Get It Now! for \$19

Jurisdiction

Missouri

Court

Eastern District Court of Appeals

Apr 29, 2014

In re Jones, 420 S.W.3d 605 13.

Overview: Argument relating to validity of qualifying offense under Mo. Rev. Stat. § 632.480(5)(a) for a sexually violent predator finding was not properly preserved for appellate review because a patient failed to timely and specifically object to testimony that he had pled guilty in a child-molestation cause and the admission of the sentence and judgment.

among other evidence, two psychologists testified for the State. Dr. Kimberly Weitl and Dr. Steven Mandracchia. Dr. Weitl, a psychologist employed by ...

Get it Now! for \$19

Jurisdiction

Missouri

Court

Southern District Court of Appeals

Date

Jul 18, 2013

People v. Brazzell (In re Brazzell), 2015 IL App (4th) 140645-U

Dr. Kimberly Weitl., a licensed clinical psychologist who specialized in evaluating sex...

Get It Now! for \$19

Jurisdiction

Illinois

Court

4th District Court of Appeals

Date

May 11, 2015

15. People v. Gavin (In re Gavin), 2014 IL App (1st) 122918

Overview: Prejudicial impact of all the prosecutorial errors mandated a new trial because the prosecution resorted to extreme sarcasm in its rebuttal and referred to the underlying facts of petitioner's history of sexual crimes for the truth of the matter asserted. the totality of the remarks was so prejudicial that admonitions could not provide a cure.

witnesses: Dr. Vasiliki Tsoflias, a forensic psychologist, and Dr. Kimberly Weitl, a psychologist, to testify as experts in clinical and.

Get It Now! for \$19

Jurisdiction

Illinois

Court

1st District Court of Appeals

20.

Get It Now! for \$19

Date Jun 30, 2014 16. People v. Hoover (In re Hoover), 2011 IL App (3d) 100488-U ... further order of the court. On February 28, 2008, Dr. Kimberly Weitl , a clinical psychologist, conducted the first of several periodic ... Get it Now! for \$19 Jurisdiction Illinois Court 3rd District Court of Appeals Nov 18, 2011 17. People v. Hoover (In re Hoover), 2014 IL App (3d) 130569-U The State called Dr. Kimberly Weitl , a clinical psychologist, as an expert witness. The parties ... Get It Now! for \$19 Jurisdiction Illinois Court 3rd District Court of Appeals Date Jul 09, 2014 People v. Huston(In re Det. of Huston), 2013 IL App (4th) 120238-U ☐ 18. subject of this appeal. In his petition, respondent noted that Kimberly Weitl, a clinical psychologist, performed an annual examination of him ... Get It Now! for \$19 Jurisdiction Illinois Court 4th District Court of Appeals Date Feb 25, 2013 19. People v. Lieberman (In re Lieberman), 2015 IL App (1st) 141360-U the State included the October 2011 report prepared by Dr. Kimberly Weitl . Dr. Weitl indicated that respondent refused to participate in . Accessed (\$) - available until Nov 02, 2015 Jurisdiction Illinois Court 1st District Court of Appeals Date-Jun 26, 2015

... Suire filed an identical report in April 2007 and Dr. Kimberly Weitlidid so in April 2008 and March 2014. Respondent continued

People v. Tiney-Bey (In re Tiney-Bey), 2015 IL App (4th) 140536-U

Jurisdiction Illinois Court 4th District Court of Appeals Date May 06, 2015















► @ LexisNesis